1947

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File No. B. Village Panchayat

Legal **DEPARTMENT**

B **BRANCH**

Subject:— L. A. Bill No. XII of 1947.

A Bill to amend the Bombay Village Panchayat Act, 1933.

Bombay Act No. IX of 1947

137.
L. C.

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C O N T E N T S.

Legal Department File No. B. Village Panch/47.

Sr. No.	Compilation No.	Subject.	Pages.
		A Bill to amend the Bombay Village Panchayats Act, 1933.	
1.	U.O. to H.D. L.G.D.No.6990 dt. 3rd Sept. 1947.	Draft Bill	1-2.
2.	U.O. to H & L.C. D. No. 9-L dt. 11th Sept. 1947	Recommendation of the Governor	3-6
3.	L.D.R.I.No. 16547 dt. 24th Dec. 1947.	Pendency of the Bill	7-8.
4.	G.L.L.D.No. 11770 dt. 8th Dec. 1947.	Seeking Governor's assent	9-10.
5.	L.D.R.I.No. 1217 dt. 2nd Feb. 1948.	Governor-General's assent.	11-12.
6.	G.R.L.D.No. 9036 dt. 5th Sept. 1947.	Publication of the Bill.	13-26.
7.	G.L.L.D.No. 955 dt. 28th Jan. 1948.	Publication of the Act.	27-38.
—	————	Copies of Bill, Act and Debates.	39-208.

SKT/16.5.

1815

Office of the R.L.A.

The draft of the Bombay Village Panchayats (Amendment) Bill, 1947, has been already forwarded to the Health and Local Government Department.

The subject-matter of the Bill falls under entries 13 and 42 in List II and entry 5 in List III in the Seventh Schedule to the Government of India Act, 1935. It requires the recommendation of the Governor under clause (a) of sub-section (1) and under sub-section (3) of section 82 of the said Act since the Bill imposes a tax on houses including farm buildings whether or not subject to payment of agricultural assessment and further involves expenditure from the revenues of the Province (cf. clauses 19 and 12, and 20 respectively of the Bill). The provision made in clause 11(i) will be repugnant to the provisions contained in section 17 of the Indian Registration Act, 1908, which is an existing Central law relating to a concurrent matter falling under Item 8, in List III in the Seventh Schedule to the Government of India Act, 1935. As such the Bill will be required to be reserved for the consideration of the Governor-General under section 107(2) of the said Act.

Sd/- P.M.Lad.
3/9/47

Remembrancer of Legal Affairs.

U.R. to H & L.G.D. No. 8990

dated the 3rd September 1947.

SNT/16.5.

Legal Department.

The Bill to amend the Bombay Village Panchayats Act, 1933, having been published in the Bombay Government Gazette, dated the 5th September 1947, the Health and Local Government Department is requested to submit the case papers to H.M.(L.S.G.), for his use at the time of introducing the Bill. The Health and Local Government Department may now arrange to give the notice to the Secretary to the Bombay Legislative Assembly in the appended form. That Department is also requested to obtain the orders of Government in due course regarding the application of the proposed Act to the partially excluded areas. A draft recommendation order under sub-sections (1) and (3) of section 82 of the Government of India Act, 1935, is appended. The paper should be submitted to H.E. the Governor for that purpose.

Sd/- B.D. Pandit.
4/9
for Secretary to Government.

H.M. to H. and L.G.Department, No. 9-L, dated the 11th September 1947.

SMT/16.5.

Health and Local Government Department,

Poona, September 1947.

No. In exercise of the powers conferred upon him by clause (a) of sub-section (1) and sub-section (3) of section 82 of the Government of India Act, 1935, the Governor of Bombay is pleased to recommend to the Bombay Legislative Assembly the consideration of the Bill to amend the Bombay Village Panchayats Act, 1933.

By order of the Governor of Bombay

Secretary to the Government of Bombay,
Health and Local Government Department.

SNT/16.5.

No.PSG. 5925.
Government House,
Bombay, 24th December 1947.

From

L.E.Bagshawe, Esquire, ICS.
Private Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay.

Subject: Bombay Village Panchayats (Amendment) Bill, 1947.

Sir,

With reference to the above mentioned Bill which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 25th September 1947 and the 4th November 1947, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as the provision made in clause 11(1) of the Bill is repugnant to the provisions contained in section 17 of the Indian Registration Act, 1908, which is an existing law relating to a concurrent matter falling under entry 6 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935, it is necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserves the Bill for the consideration of His Excellency the Governor General.

Your most obedient servant,

Sd/- L.E.Bagshawe.

Private Secretary to the
Governor of Bombay.

No.PSG. 5926.
Bombay, 24 December 1947.

Copy forwarded with compliments for information to :-

The Secretary to Government, Legal Department, with reference to his letter No. 11770, dated the 8th December 1947.

The Secretary to Government, Health and Local Government Department, with reference to his endorsement No.S-180/34311-G, dated the 19th December 1947.

By order of the Governor of
Bombay

Sd/- L.E.Bagshawe.

Private Secretary to the Governor of Bombay.

SHT/15.5.

No. 11770
Legal Department.
Bombay Castle, 8th December 1947.

From

P.M. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay,

To

The Private Secretary to the the Governor of Bombay.

Subject: A Bill to amend the Bombay Village Panchayats Act, 1933.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, the authentic copy of the Bill to amend the Bombay Village Panchayats Act, 1933, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 25th September 1947 and on the 4th November 1947, respectively.

2. The subject-matter of the Bill falls under entries 13 and 42 in List II and entry 8 in List III in the Seventh Schedule to the Government of India Act, 1935.

3. The provision made in clause 11(1) of the Bill is repugnant to the provisions contained in section 17 of the Indian Registration Act, 1908, which is an existing law relating to a concurrent matter falling under entry 8 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. It is, therefore, necessary to reserve the Bill for the consideration of the Governor-General with reference to sectio 107(2) of the Government of India Act, 1935.

4. I also forward herewith six copies of each of the items Nos. 1 to 3 and two copies of item No. 4 of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
3. Bill as read for the third time and passed by the Bombay Legislative Council.
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 17th, 19th, 20th, 23rd, 24th, and 25th September and of the Bombay Legislative Council dated the 4th November 1947.

(P.T.O.)

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- P.M.Lad.

Secretary to Government.

Through

The Secretary to the Government of Bombay,

Health and Local Government Department.

SHT/16.5.

No.PSG. 436 11,
Government House,
Bombay, 29th January 1948.

From

L. M. Nadkarni, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay

To

The Secretary to Government
Legal Department, Bombay.

Subject: Bombay Village Panchayats (Amendment) Bill, 1947.

Sir,

In continuation of my letter No.PSG.361, dated the 26th January 1948, on the above subject, I am directed to return herewith the authentic copy of the Bombay Village Panchayats (Amendment) Bill 1947, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd/- ~~L.M.Nadkarni.~~

for Private Secretary to the Governor of Bombay.

SNT/16.5.

A Bill to amend the Bombay Village Panchayats Act, 1933.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 9036
Bombay Castle, 5th September 1947.

Memorandum from the Health and Local Government Department.—Transferring for necessary action, the papers relating to a Bill to amend the Bombay Village Panchayats Act, 1933.

RESOLUTION :- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 5th September as Bill No. XLI of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Gazette, on the 10th September 1947.

3. The dated of the various publications should be reported to the Bombay Legislative Department.

By order of the Governor of Bombay,

Sd/- S.B.PALEKAR,
Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the Statement of Objects and Reasons may be forwarded to the Bombay Legislature Department for distribution to the Members for distribution to the Members of the Bombay Legislative Assembly and 45 copies for the use of the Legal Department and 20 copies for the use of the Health and Local Government Department,
The Health and Local Government Department,
*The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay. } with a copy of the Bill and S.O.R.

*With five extra copies of the Bill.

SNT/16.5.

(60)

L. A. BILL No. XLI OF 1947.

A Bill to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 25th September 1947.)

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Bombay Village Panchayats (Amendment) Act, 1945, and to re-enact certain provisions of the said Act, and to repeal the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Second Amendment) Act, 1945;

26, Geo. 5, Ch. 2.
Bom. II of 1945.
Bom. IV of 1940.
Bom. XIV of 1945.

AND WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Bom. VI of 1933.

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1947.

Repeal and re-enactment of Bom. II of 1945.

Bom. II of 1945.

2. The Bombay Village Panchayats (Amendment) Act, 1945, is hereby repealed and the provisions of the said Act are re-enacted, subject to the following modifications:—

(*i*) In section 2, clauses (*1*) and (*2*) shall be deleted;

(*ii*) In *Explanation* 2 in section 4, for the words "police patél or" the words "police patel or a revenue or police patel who is an officiator under the Bombay Hereditary Offices Act shall be deemed to be a servant of the Crown but" shall be substituted; and

Bom. III of 1874.

(*iii*) In section 5, clause (*i*) and the word "and" after the said clause shall be deleted.

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Repeal of Bom. IV of 1940 and Bom. XIV of 1945.

3. Sections 2 and 4 of the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Second Amendment) Act, 1945, are hereby repealed.

Bom. IV of 1940. Bom. XIV of 1945.

Amendment of section 6 of Bom. VI of 1933.

4. In section 6 of the Bombay Village Panchayats Act, 1933 (hereinafter called the said Act)—

(*a*) in sub-section (*1*), for the word "eleven" the word "fifteen" shall be substituted;

(*b*) in sub-section (*3*), for the words "district local board", at both the places where they occur, the words "standing committee of the district local board" shall be substituted.

Bom. VI of 1933.

Amendment of section 12 of Bom. VI of 1933.

5. In sub-section (*1*) of section 12 of the said Act, for the figure "7" the figure "6" shall be substituted.

Amendment of section 17 of Bom. VI of 1933.

6. To section 17 of the said Act, the following new sub-section shall be added, namely:—

"(*3*) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (*1*) or sub-section (*2*), the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision."

Amendment of section 23 of Bom. VI of 1933.

7. To sub-section (*1*) of section 23 of the said Act, the following proviso shall be added, namely:—

"Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board shall, within the next four weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment, and the person so appointed shall be deemed to have been duly elected under this sub-section."

Amendment of section 26 of Bom. VI of 1933.

8. In section 26 of the said Act—

(*1*) in clause (*i*) of sub-section (*1*), for the words "and maintenance" the words "maintenance and regulation" shall be substituted;

(*2*) sub-section (*2*) shall be deleted;

(*3*) sub-section (*3*) shall be renumbered as sub-section (*2*) and in the sub-section so renumbered for the words, figures and brackets "sub-sections (*1*) and (*2*)" the word, figure and brackets "sub-section (*1*)" shall be substituted.

Insertion of new section 26A in Bom. VI of 1933.

Discretionary powers and duties of panchayats.

9. After section 26 of the said Act, the following new section shall be inserted, namely:—

"26A. (*1*) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local

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board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) crop experiments ;
(*b*) construction and maintenance of slaughter-houses ;
(*c*) relief of the destitute and the sick ;
(*d*) improvement of agriculture ;
(*e*) co-operative farming ;
(*f*) improvement of cattle and their breeding and the general care of the live-stock ;
(*g*) establishment of granaries ;
(*h*) village libraries and reading-rooms ;
(*i*) planting of trees along roads, in market places and other public places and their maintenance and preservation ;
(*j*) lay-out and maintenance of play-grounds for village children and of public gardens ;
(*k*) promotion, improvement and encouragement of cottage industries ;
(*l*) destruction of stray and ownerless dogs ;
(*m*) construction and maintenance of dharma-shalas ;
(*n*) management and control of ghats which are not managed by any other authority ;
(*o*) assistance to the residents when any natural calamity occurs ;
(*p*) disposal of unclaimed corpses and carcasses and unclaimed cattle ;
(*q*) construction and maintenance of public latrines ;
(*r*) establishment and maintenance of markets ;
(*s*) watch and ward of the village and the crops therein :

Provided that the cost of watch and ward under paragraph (*s*) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed ;

(*t*) construction and maintenance of houses for the conservancy staff of the panchayat.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village."

Insertion of new section 28A in Bom. VI of 1933.

10. After section 28 of the said Act, the following new section shall be inserted, namely :—

Government may vest certain lands in panchayat.

"28A. For the purposes of this Chapter the Provincial Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other

Amendment of section 30 of Bom. VI of 1933.

11. In sub-section (*1*) of section 30 of the said Act,—

(*i*) after the word "panchayat" the words and figures "and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908," shall be inserted ; IV of 1882. XVI of 1908.

(*ii*) for the proviso, the following shall be substituted, namely :—

"Provided that no lease, sale or other transfer of any such immoveable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board."

Substitution of new section 33 for section 33 of Bom. VI of 1933.

12. For section 33 of the said Act, the following shall be substituted, namely :—

Secretary of panchayat.

"33. (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat. His qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) shall be such as may be prescribed.

(*2*) The Provincial Government shall pay three-fourths of the salary and allowances of such Secretary.

(*3*) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (*1*)." Bom. of 1947.

Amendment of section 36 of Bom. VI of 1933.

13. In clause (*c*) of sub-section (*1*) of section 36 of the said Act, for the words, brackets and figures "sub-section (*2*) of section 26" the word, figures and letter "section 26A" shall be substituted.

Amendment of section 37 of Bom. VI of 1933.

14. After sub-section (*1*) of section 37 of the said Act, the following new sub-section shall be inserted, namely :—

"(*1A*) If any question, doubt or dispute arises as to the validity of the election of a member of a 'nyaya panchayat' under sub-section (*1*), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute."

Amendment of section 41 of Bom. VI of 1933.

15. In section 41 of the said Act for clause (*c*) the following shall be substituted, namely :—

'"(*c*) Under the Prevention of Cruelty to Animals Act, 1890— XI of 1890.

Practising phooka	4	
Killing animals with unnecessary cruelty	5	
Being in possession of the skin of a goat		

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	Employing animals unfit for labour ...	6
	Baiting or inciting animals to fight ...	6C
	Permitting diseased animals to go at large or to die in public places ...	7
Bom. IV of 1890.	(*d*) Under the Bombay District Police Act, 1890—	
	Being drunk and incapable of taking care of himself in a street or public place or place of public resort ...	61(*l*)(*p*)
Bom. I of 1892.	(*e*) Under the Bombay District Vaccination Act, 1892—	
	Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area ...	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years ...	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. IV of 1923.	(*f*) Under the Bombay Primary Education Act, 1923—	
	Failure to cause child to attend school	21
	Employing child liable for compulsory education	22
Bom. V of 1925.	(*g*) Under the Bombay Prevention of Adulteration Act, 1925—	
	Sale or manufacture of food not of the proper nature, substance or quality...	4
	(*h*) Breaches of by-laws made punishable under this Act :"	

Amendment of section 42 of Bom. VI of 1933.

16. In clause (*b*) of section 42 of the said Act for the word "panchayat" the words "nyaya panchayat" shall be substituted.

Amendment of section 45 in Bom. VI of 1933.

17. In sub-section (*1*) of section 45 of the said Act—

(*i*) for the letters and figures "Rs. 10", "Rs. 20" and "Rs. 5", the letters and figures "Rs. 20", "Rs. 40" and "Rs. 10" shall, respectively, be substituted;

(*ii*) the word "and" at the end of clause (*b*) shall be deleted; and

(*iii*) after clause (*b*) the following new clauses shall be inserted, namely :—

Bom. IV of 1923.

"(*bb*) Under section 21 of the Bombay Primary Education Act, 1923—

Fine as provided in that section;

(*bc*) Under section 22 of the Bombay Primary Education Act, 1923, or under the provisions of any other Act mentioned in section 41—

Fine not exceeding Rs. 20; and"

Amendment of section 46 of Bom. VI of 1933.

18. In section 46 of the said Act,—

(*i*) in clause (*a*) for the figures " 20 " the figures " 40 " shall be substituted;

(*ii*) in clause (*b*) for the figures " 10 " the figures " 20 " shall be substituted;

(*iii*) after clause (*b*) the following new clause shall be inserted, namely :—

" (*c*) Under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, 1923— Bom. IV of 1923.

Fine not exceeding Rs. 50."

Amendment of section 77 of Bom. VI of 1933.

19. In section 77 of the said Act,—

(*1*) In sub-section (*1*) after the word " Court " where it occurs for the first time, the words " or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict," shall be inserted;

(*2*) in sub-section (*2*), after the words " village bench ", the words " or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict," shall be inserted;

(*3*) in sub-section (*3*), after the word " Court " where it occurs for the second time the words " or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict," shall be inserted.

Amendment of section 89 of Bom. VI of 1933.

20. In section 89 of the said Act,—

(i) at the beginning, the following shall be inserted, namely :—

" (*1*) Every panchayat shall levy a tax upon the owners or occupiers of houses including farm buildings whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemptions as may be prescribed.

(*1A*) Where an owner of a house or land has left the village or cannot otherwise be found, any person to whom such house or land has been transferred shall be liable for the tax leviable under sub-section (*1*) from such owner.

(*1B*) The rules made for the levy of the tax specified in sub-section (*1*) may provide that the payment of such tax may be made either in cash or by rendering of work and labour.";

(ii) in sub-section (*2*)

(*a*) in clause (iii) for the words " fairs and festivals " the words " fairs, festivals and entertainments " shall be substituted.

(*b*) after clause (vi) the following new clauses shall be inserted, namely :—

" (*via*) a tax on shops and hotels;

(*vib*) a tax on premises where machinery is run by steam, oil, or electric power for any purpose other than a domestic or agricultural purpose;"

(iii) after sub-section (*2*), the following shall be inserted, namely :—

"(*2A*) Notwithstanding anything contained in sub-section (*2*), every panchayat shall levy any one of the taxes specified in sub-section (*2*) as may be prescribed in regard to the panchayat"; and

(iv) in sub-section (*3*) for the words "district local boards", at both the places where they occur, the word "standing committee of the district local board" shall be substituted.

Insertion of new section 92A in Bom. VI of 1933.

21. At the beginning of Chapter X the following new section shall be inserted, namely :—

Contribution by Provincial Government.

"92A. The Provincial Government shall make every year a grant to every panchayat levying the taxes under sub-sections (*1*) and (*2A*) of section 89 equivalent in amount to fifteen per cent. of the ordinary land revenue or twenty-five per cent. of the local fund cess, realised in that year within the limits of the village, whichever is greater."

Substitution of new section 93 for section 93 of Bom. VI of 1933.

22. For section 93 of the said Act, the following shall be substituted, namely :—

Loan by district local boards.

"93. Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act."

Bom. VI of 1923.

Amendment of section 102 of Bom. VI of 1933.

23. In sub-section (*1*) of section 102 of the said Act, after the word "force" the words, figures, letter and brackets "or fails to levy a tax under sub-section (*1*) or sub-section (*2A*) of section 89" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

24. In sub-section (*1*) of section 108 of the said Act—

(ia) after clause (*d*) the following new clause shall be inserted, namely :—

"(*d*1) under section 26A, prescribing the persons in the village from whom and the manner in which the costs of watch and ward under clause (*s*) of sub-section (*1*) of section 26A shall be levied and recovered;"

(i) in clause (*e*1), after the words "prescribing the" the word "qualifications" and after the word "service"

the words and brackets " (including disciplinary matters) " shall, respectively, be inserted ;

(ii) after clause (*m*), the following new clause shall be inserted, namely :—

" (*m*1) under sub-section (*2A*) of section 89, prescribing for each panchayat any one of the taxes specified in sub-section (*2*) ; "

Substitution of nyaya panchayat for village bench or bench in Bom. VI of 1933.

25. In the said Act wherever the expression " village bench " or " bench " occurs the expression " *nyaya panchayat* " shall be substituted.

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STATEMENT OF OBJECTS AND REASONS.

The Bombay Village Panchayats Act, 1933, was amended by the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Amendment) Act, 1945, and the Bombay Village Panchayats (Second Amendment) Act, 1945. All these three Acts were made by the Governor during the section 93 regime under sub-section (*4*) of section 93 of the Government of India Act, 1935. These Acts continue to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect unless sooner repealed or re-enacted by Act of the Provincial Legislature. It is considered desirable to continue in force section 3 of the Bombay Village Panchayats (Amendment) Act, 1940, and the provisions of the Bombay Village Panchayats (Amendment) Act, 1945, with certain modifications.

2. Opportunity has been taken to amend the principal Act in four main respects. Certain additional discretionary powers and duties have been conferred and imposed on the Panchayats on the lines of the Central Provinces and Berar Panchayats Act, 1946. Incidentally, the Provincial Government will vest in the Panchayats for these purposes open sites, waste, vacant or grazing lands.

3. The Secretary of the Panchayat will hereafter be appointed and be a servant of the Panchayat. Government will pay three-fourths of his salary. Jurisdiction under certain additional Acts has been conferred on the "*nyaya-panchayat*" which will be the new name of the village bench. Penalties which can be imposed by the *nyaya-panchayat* have been increased. Additional powers of taxation on entertainment and on shops and hotels have been conferred on the Panchayats. In order to enable Panchayats to discharge their responsibilities, provision has been made that Government shall assign to the Panchayats, which levy in addition to the house and land taxes under section 89 (*1*) any one of the optional taxes which will be specified in that behalf, 15 per cent. of the land revenue in the village.

4. The following notes on clauses explain the important changes made :—

Clause 4.—The maximum number of elected members of Panchayats is raised from 11 to 15. The powers of the district local board under the Act are specifically vested in the standing committee of the district local board.

Clause 6.—Disputes regarding the validity of the election of a sarpanch will be settled by the Collector whose decision shall be final.

Clause 7.—Provision in section 6 (*3*) is made applicable to bye-election under this section.

Clause 9.—This confers certain additional discretionary powers and imposes certain additional discretionary duties upon the Panchayats.

Clause 10.—The Provincial Government may vest in Panchayats open sites, waste, vacant or grazing land in the village for the purposes of carrying out its administrative powers and duties.

Clause 11.—A new proviso is substituted for the proviso to sub-section (*1*) of section 30 to the effect that no lease, sale or transfer of any immoveable property vested in the Panchayat by the district local board shall be made without the previous sanction of the Commissioner or of the Board.

Mo-1 Bk Hb 176—2

Clause 12.—Secretary of the Panchayat will be appointed by and be a servant of the Panchayat. His qualifications, powers, duties and conditions of service (including disciplinary matters) will be prescribed by Government. The Provincial Government will pay three-fourths of the salary and allowances of the Secretary.

Clause 13.—Provision has been made for deciding any question, doubt or dispute as to the validity of the election of a member of a *nyaya-panchayat* by the Collector whose decision shall be final.

Clause 14.—*Nyaya-panchayat* is given additional jurisdiction to try offences under the Prevention of Cruelty to Animals Act, 1890, the Bombay Prevention of Adulteration Act, 1925, the Bombay District Vaccination Act, 1892, the Bombay Primary Education Act, 1923, and for prohibition of offences under the Bombay District Police Act, 1890.

Clauses 16 and 17.—Power is given to the *nyaya-panchayat* to inflict higher fines than hitherto.

Clause 18.—Provision has been made for a *nyaya-panchayat* to make a reference to the District Magistrate in cases where it thinks that the punishment it might inflict is not sufficient for the offence.

Clause 19.—Where an owner of a house or land has left the village or cannot otherwise be found the transferee of such house or land is made liable for the tax leviable from such owner. The Panchayat is given power to tax entertainments, as well as shops and hotels. Provision is also made that every Panchayat shall levy such one of the optional taxes mentioned in sub-section (*2*) of section 89 as may be prescribed in rules by Government.

Clause 20.—The Provincial Government will assign to every Panchayat levying additional tax under sub-section (*2A*) of section 89 fifteen per cent. of the land revenue realised within the village.

Dated 3rd September 1947. G. D. VARTAK.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLI OF 1947]

(As read for the third time and passed by th Legislative Assembly on the 25th September 1947.)

A Bill to amend the Bombay Village Panchayats Act, 1933.

[Mr. G. D. Vartak, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS

Publication of the Bombay Village Panchayats (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY,
Legal Department.
Resolution No. 965
Bombay Castle, 28th January 1948.

Letter to the Private Secretary to the Governor, No.11770, dated the 8th December 1947.

Letter from the Private Secretary to the Governor, No. PSG. 361, dated the 26th January 1948 :-

"With reference to the correspondence ending with this office endorsement No.PSG. 5926, dated the 24th December 1947, on the above subject, I am directed to inform you that intimation has been received from the Secretary to the Government of India, Ministry of Home Affairs that His Excellency the Governor General has assented to the Bombay Village Panchayats (Amendment) Bill, 1947, on the 23rd January 1948."

RESOLUTION:- The law should be published as Bombay Act No.LX of 1947, in the Bombay Government Gazette dated the 28th January 1948.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Health and Local Government Department.

By order of the Governor of Bombay,

Sd/- S.L.CHAUDHARI.

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay, (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),
The Health and Local Government Department,) with a
*The Oriental Translator to Government,) copy of
The Bombay Legislature Department,) the
The Director of Publicity, Bombay,) Act.
The Enquiry Officer for the Secretariat, Bombay.)

* With five extra copies of the Act.

SMT/16.5

BOMBAY ACT NO. LX OF 1947.

~~L. A. BILL No. XLI OF 1947.~~

An Act

~~A Bill~~ to amend the Bombay Village Panchayats Act, 1933.

~~(As read for the third time and passed by the Legislative Assembly on the 25th September 1947.)~~

~~(As read for the third time and passed by the Legislative Council on the 4th November 1947.)~~

26 Geo. 5, Ch. 2. Bom. II of 1945. Bom. IV of 1940. Bom. XIV of 1945.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Bombay Village Panchayats (Amendment) Act, 1945, and to re-enact certain provisions of the said Act, and to repeal the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Second Amendment) Act, 1945;

Bom. VI of 1933.

AND WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1947.

Bom. II of 1945.

Repeal and re-enactment of Bom. II of 1945.

2. The Bombay Village Panchayats (Amendment) Act, 1945, is hereby repealed and the provisions of the said Act are re-enacted, subject to the following modifications:—

(*i*) In section 2, clauses (*1*) and (*2*) shall be deleted;

(*ii*) In *Explanation* 2 in section 4, for the words "police patel or" the words "police patel or a revenue or police patel who is an officiator under the Bombay Hereditary Offices Act shall be deemed to be a servant of the Crown but" shall be substituted; and

Bom. III of 1874.

(*iii*) In section 5, clause (*i*) and the word "and" after the said clause shall be deleted.

Repeal of Bom. IV of 1940 and Bom. XIV of 1945.

3. Sections 2 and 4 of the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Second Amendment) Act, 1945, are hereby repealed.

Bom IV of 1940. Bom. XIV of 1945.

Amendment of section 6 of Bom. VI of 1933.

4. In section 6 of the Bombay Village Panchayats Act, 1933 (hereinafter called the said Act),—

(*a*) in sub-section (*1*), for the word "eleven" the word "fifteen" shall be substituted;

(*b*) in sub-section (*3*), for the words "district local board", at both the places where they occur, the words "standing committee of the district local board" shall be substituted.

Bom. VI of 1933.

Amendment of section 12 of Bom. VI of 1933.

5. In sub-section (*1*) of section 12 of the said Act, for the figure "7" the figure "6" shall be substituted.

Amendment of section 17 of Bom. VI of 1933.

6. To section 17 of the said Act, the following new sub-section shall be added, namely:—

"(*3*) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (*1*) or sub-section (*2*), the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision."

Amendment of section 23 of Bom. VI of 1933.

7. To sub-section (*1*) of section 23 of the said Act, the following proviso shall be added, namely:—

"Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board shall, within the next four weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment and the person so appointed shall be deemed to have been duly elected under this sub-section."

Amendment of section 26 of Bom. VI of 1933.

8. In section 26 of the said Act,—

(*1*) in clause (*i*) of sub-section (*1*), for the words "and maintenance" the words "maintenance and regulation" shall be substituted;

(*2*) sub-section (*2*) shall be deleted;

(*3*) sub-section (*3*) shall be renumbered as sub-section (*2*) and in the sub-section so renumbered for the words, figures and brackets "sub-sections (*1*) and (*2*)" the word, figure and brackets "sub-section (*1*)" shall be substituted.

Insertion of new section 26A in Bom. VI of 1933.

9. After section 26 of the said Act, the following new section shall be inserted, namely:—

Discretionary powers and duties of panchayats.

"26A. (*1*) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local

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board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) crop experiments;
(*b*) construction and maintenance of slaughter-houses;
(*c*) relief of the destitute and the sick;
(*d*) improvement of agriculture;
(*e*) co-operative farming;
(*f*) improvement of cattle and their breeding and the general care of the live-stock;
(*g*) establishment of granaries;
(*h*) village libraries and reading-rooms;
(*i*) planting of trees along roads, in market places and other public places and their maintenance and preservation;
(*j*) lay-out and maintenance of play-grounds for village children and of public gardens;
(*k*) promotion, improvement and encouragement of cottage industries;
(*l*) destruction of stray and ownerless dogs;
(*m*) construction and maintenance of dharma-shalas;
(*n*) management and control of ghats which are not managed by any other authority;
(*o*) assistance to the residents when any natural calamity occurs;
(*p*) disposal of unclaimed corpses and carcasses and unclaimed cattle;
(*q*) construction and maintenance of public latrines;
(*r*) establishment and maintenance of markets;
(*s*) watch and ward of the village and the crops therein:

Provided that the cost of watch and ward under paragraph (*s*) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed;

(*t*) construction and maintenance of houses for the conservancy staff of the panchayat.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village."

10. After section 28 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 28A in Bom. VI of 1933.

"28A. For the purposes of this Chapter, the Provincial Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other property in the village vesting in the Crown." Government may vest certain lands in panchayat.

Amendment of section 30 of Bom. VI of 1933.

11. In sub-section (*1*) of section 30 of the said Act,—

(*i*) after the word "panchayat" the words and figures "and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908," shall be inserted ; IV of 1882. XVI of 1908.

(*ii*) for the proviso, the following shall be substituted, namely :—

"Provided that no lease, sale or other transfer of any such immoveable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board."

Substitution of new section 33 for section 33 of Bom. VI of 1933.

12. For section 33 of the said Act, the following shall be substituted, namely :—

Secretary of panchayat.

"33. (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat. His qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) shall be such as may be prescribed.

(*2*) The Provincial Government shall pay three-fourths of the salary and allowances of such Secretary.

(*3*) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (*1*)." Bom. of 1947.

Amendment of section 36 of Bom. VI of 1933.

13. In clause (*c*) of sub-section (*1*) of section 36 of the said Act, for the words, brackets and figures "sub-section (*2*) of section 26" the word, figures and letter "section 26A" shall be substituted.

Amendment of section 37 of Bom. VI of 1933.

14. After sub-section (*1*) of section 37 of the said Act, the following new sub-section shall be inserted, namely :—

"(*1A*) If any question, doubt or dispute arises as to the validity of the election of a member of a *nyaya panchayat* under sub-section (*1*), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute."

Amendment of section 41 of Bom. VI of 1933.

15. In section 41 of the said Act, for clause (*c*) the following shall be substituted, namely :—

"(*c*) Under the Prevention of Cruelty to Animals Act, 1890— XI of 1890.

Practising phooka	4
Killing animals with unnecessary cruelty	5
Being in possession of the skin of a goat killed with unnecessary cruelty ...	5A

	Employing animals unfit for labour ...	6
	Baiting or inciting animals to fight ...	6ʊ
	Permitting diseased animals to go at large or to die in public places ...	7
Bom. IV of 1890.	(*d*) Under the Bombay District Police Act, 1890—	
	Being drunk and incapable of taking care of himself in a street or public place or place of public resort ...	61(*f*)(*p*)
Bom. I of 1892.	(*e*) Under the Bombay District Vaccination Act, 1892—	
	Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area ...	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years ...	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. IV of 1923.	(*f*) Under the Bombay Primary Education Act, 1923—	
	Failure to cause child to attend school	21
	Employing child liable for compulsory education	22
Bom. V of 1925.	(*g*) Under the Bombay Prevention of Adulteration Act, 1925—	
	Sale or manufacture of food not of the proper nature, substance or quality...	4
	(*h*) Breaches of by-laws made punishable under this Act :"	

Amendment of section 42 of Bom. VI of 1933.

16. In clause (*b*) of section 42 of the said Act, for the word "panchayat" the words "*nyaya panchayat*" shall be substituted.

Amendment of section 45 of Bom. VI of 1933.

17. In sub-section (*1*) of section 45 of the said Act,—

(*i*) for the letters and figures "Rs. 10", "Rs. 20" and "Rs. 5", the letters and figures "Rs. 20", "Rs. 40" and "Rs. 10" shall, respectively, be substituted;

(*ii*) the word "and" at the end of clause (*b*) shall be deleted; and

(*iii*) after clause (*b*) the following new clauses shall be inserted, namely:—

Bom. IV of 1923. "(*bb*) Under section 21 of the Bombay Primary Education Act, 1923—

Fine as provided in that section;

Bom. IV of 1923. (*bc*) Under section 22 of the Bombay Primary Education Act, 1923, or under the provisions of any other Act mentioned in section 41—

Fine not exceeding Rs. 20; and "

Amendment of section 46 of Bom. VI of 1933.

18. In section 46 of the said Act,—

(*i*) in clause (*a*) for the figures "20" the figures "40" shall be substituted;

(*ii*) in clause (*b*) for the figures "10" the figures "20" shall be substituted;

(*iii*) after clause (*b*) the following new clause shall be inserted, namely:—

"(*c*) Under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, 1923— Bom. IV of 1923.

Fine not exceeding Rs. 50."

Amendment of section 77 of Bom. VI of 1933.

19. In section 77 of the said Act,—

(*1*) In sub-section (*1*) after the word "Court" where it occurs for the first time, the words "or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict" shall be inserted;

(*2*) in sub-section (*2*), after the words "village bench", the words "or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict" shall be inserted;

(*3*) in sub-section (*3*), after the word "Court" where it occurs for the second time the words "or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict" shall be inserted.

Amendment of section 89 of Bom. VI of 1933.

20. In section 89 of the said Act,—

(i) at the beginning, the following shall be inserted, namely:—

"(*1*) Every panchayat shall levy a tax upon the owners or occupiers of houses including farm buildings whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemptions as may be prescribed.

(*1A*) Where an owner of a house or land has left the village or cannot otherwise be found, any person to whom such house or land has been transferred shall be liable for the tax leviable under sub-section (*1*) from such owner.

(*1B*) The rules made for the levy of the tax specified in sub-section (*1*) may provide that the payment of such tax may be made either in cash or by rendering of work and labour.";

(ii) in sub-section (*2*),—

(*a*) in clause (iii) for the words "fairs and festivals" the words "fairs, festivals and entertainments" shall be substituted.

(*b*) after clause (vi) the following new clauses shall be inserted, namely:—

"(*via*) a tax on shops and hotels;

(*vib*) a tax on premises where machinery is run by steam, oil or electric power for any purpose other than a domestic or agricultural purpose;"

(iii) after sub-section (*2*), the following shall be inserted, namely :—

"(*2A*) Notwithstanding anything contained in sub-section (*2*), every panchayat shall levy any one of the taxes specified in sub-section (*2*) as may be prescribed in regard to the panchayat"; and

(iv) in sub-section (*3*) for the words "district local board", at both the places where they occur, the word "standing committee of the district local board" shall be substituted.

Insertion of new section 92A in Bom. VI of 1933.

21. At the beginning of Chapter X the following new section shall be inserted, namely :—

Contribution by Provincial Government.

"92A. The Provincial Government shall make every year a grant to every panchayat levying the taxes under sub-sections (*1*) and (*2A*) of section 89 equivalent in amount to fifteen per cent. of the ordinary land revenue or twenty-five per cent. of the local fund cess, realised in that year within the limits of the village, whichever is greater."

Substitution of new section 93 for section 93 of Bom. VI of 1933.

22. For section 93 of the said Act, the following shall be substituted, namely :—

Loan by district local board.

"93. Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act."

Bom. VI of 1923.

Amendment of section 102 of Bom. VI of 1933.

23. In sub-section (*1*) of section 102 of the said Act, after the word "force" the words, figures, letter and brackets "or fails to levy a tax under sub-section (*1*) or sub-section (*2A*) of section 89" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

24. In sub-section (*1*) of section 108 of the said Act,—

(ia) after clause (*d*) the following new clause shall be inserted, namely :—

"(*d1*) under section 26A, prescribing the persons in the village from whom and the manner in which the costs of watch and ward under clause (*s*) of sub-section (*1*) of section 26A shall be levied and recovered;"

(i) in clause (*e1*), after the words "prescribing the" the word "qualifications" and after the word "service"

the words and brackets " (including disciplinary matters) " shall, respectively, be inserted ;

(ii) after clause (*m*), the following new clause shall be inserted, namely :—

" (*m*1) under sub-section (*2A*) of section 89, prescribing for each panchayat any one of the taxes specified in sub-section (*2*) ; "

Substitution of *nyaya panchayat* for village bench or bench in Bom. VI of 1933.

25. In the said Act wherever the expression " village bench " or " bench " occurs the expression " *nyaya panchayat* " shall be substituted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLI OF 1947]

As read for the third time and passed by Legislative Assembly on the 25th September 1947.)

(As read for the third time and passed by Legislative Council on the 4th November 1947.)

A Bill to amend the Bombay Village Panchayats Act, 1933.

[Mr. G. D. Vartak, M.L.A.]

MO-I Bk Hb 268—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

FRIDAY, 5TH SEPTEMBER 1947.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XLI OF 1947.

A Bill to amend the Bombay Village Panchayats Act, 1933.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Bombay Village Panchayats (Amendment) Act, 1945, and to re-enact certain provisions of the said Act, and to repeal the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Second Amendment) Act, 1945 ;

26, Geo. 5, Ch. 2.
Bom. II of 1945.
Bom. IV of 1940.
Bom. XIV of 1945.

AND WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Bom. VI of 1933.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1947. Short title.

2. The Bombay Village Panchayats (Amendment) Act, 1945, is hereby repealed and the provisions of the said Act are re-enacted, subject to the following modifications :— Repeal and re-enactment of Bom. II of 1945.

Bom. II of 1945.

(*i*) In section 2, clauses (*1*) and (*2*) shall be deleted ;

(*ii*) In *Explanation* 2 in section 4, the words "an officiating revenue or police patel or" shall be deleted ; and

(*iii*) In section 5, clause (*i*) and the word "and" after the said clause shall be deleted.

Repeal of Bom. IV of 1940 and Bom. XIV of 1945.

3. Sections 2 and 4 of the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Second Amendment) Act, 1945, are hereby repealed.

Bom. IV of 1940. Bom. XIV of 1945. Bom. VI of 1933.

Amendment of section 6 of Bom. VI of 1933.

4. In section 6 of the Bombay Village Panchayats Act, 1933 (hereinafter called the said Act)—

(*a*) in sub-section (*1*), for the word "eleven" the word "fifteen" shall be substituted;

(*b*) in sub-section (*3*), for the words "district local board", at both the places where they occur, the words "standing committee of the district local board" shall be substituted.

Amendment of section 12 of Bom. VI of 1933.

5. In sub-section (*1*) of section 12 of the said Act, for the figure "7" the figure "6" shall be substituted.

Amendment of section 17 of Bom. VI of 1933.

6. To section 17 of the said Act, the following new sub-section shall be added, namely :—

"(*3*) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (*1*) or sub-section (*2*), the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision."

Amendment of section 23 of Bom. VI of 1933.

7. To sub-section (*1*) of section 23 of the said Act, the following proviso shall be added, namely :—

"Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board shall, within the next four weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment, and the person so appointed shall be deemed to have been duly elected under this sub-section."

Amendment of section 26 of Bom. VI of 1933.

8. In section 26 of the said Act—

(*1*) in clause (*i*) of sub-section (*1*), for the words "and maintenance" the words "maintenance and regulation" shall be substituted;

(*2*) sub-section (*2*) shall be deleted;

(*3*) sub-section (*3*) shall be renumbered as sub-section (*2*) and in the sub-section so renumbered for the words, figures and brackets "sub-sections (*1*) and (*2*)" the word, figure and brackets "sub-section (*1*)" shall be substituted.

Insertion of new section 26A in Bom. VI of 1933.

9. After section 26 of the said Act, the following new section shall be inserted, namely :—

Discretionary powers and duties of panchayats.

"26A. (*1*) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local

board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) crop experiments ;

(*b*) construction and maintenance of slaughter-houses ;

(*c*) relief of the destitute and the sick ;

(*d*) improvement of agriculture ;

(*e*) co-operative farming ;

(*f*) improvement of cattle and their breeding and the general care of the live-stock ;

(*g*) establishment of granaries ;

(*h*) village libraries and reading-rooms ;

(*i*) planting of trees along roads, in market places and other public places and their maintenance and preservation ;

(*j*) lay-out and maintenance of play-grounds for village children and of public gardens ;

(*k*) promotion, improvement and encouragement of cottage industries ;

(*l*) destruction of stray and ownerless dogs ;

(*m*) construction and maintenance of dharma-shalas ;

(*n*) management and control of ghats which are not managed by any other authority ;

(*o*) assistance to the residents when any natural calamity occurs ;

(*p*) disposal of unclaimed corpses and carcasses and unclaimed cattle ;

(*q*) construction and maintenance of public latrines ;

(*r*) establishment and maintenance of markets.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village."

10. After section 28 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 28A in Bom. VI of 1933.

"28A. For the purposes of this Chapter, the Provincial Government may vest in a panchayat open sites or waste, vacant or grazing lands in the village." Government may vest certain lands in panchayat.

Amendment of section 30 of Bom. VI of 1933.

11. In sub-section (*1*) of section 30 of the said Act,—

(*i*) after the word "panchayat" the words and figures "and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908," shall be inserted ; IV of 1882. XVI of 1908.

(*ii*) for the proviso, the following shall be substituted, namely :—

"Provided that no lease, sale or other transfer of any such immoveable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board."

Substitution of new section 33 for section 33 of Bom. VI of 1933.

12. For section 33 of the said Act, the following shall be substituted, namely :—

Secretary of panchayat.

"33. (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat. His qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) shall be such as may be prescribed.

(*2*) The Provincial Government shall pay three-fourths of the salary and allowances of such Secretary.

(*3*) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (*1*)." Bom. of 1947.

Amendment of section 37 of Bom. VI of 1933.

13. After sub-section (*1*) of section 37 of the said Act, the following new sub-section shall be inserted, namely :—

"(*1A*) If any question, doubt or dispute arises as to the validity of the election of a member of a 'nyaya panchayat' under sub-section (*1*), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute."

Amendment of section 41 of Bom. VI of 1933.

14. In section 41 of the said Act for clause (*c*) the following shall be substituted, namely :—

"(*c*) Under the Prevention of Cruelty to Animals Act, 1890— XI of 1890.

Practising phooka	4
Killing animals with unnecessary cruelty	5
Being in possession of the skin of a goat killed with unnecessary cruelty ...	5A

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	Employing animals unfit for labour ...	6
	Baiting or inciting animals to fight ...	60
	Permitting diseased animals to go at large or to die in public places ...	7
Bom. IV of 1890.	(*d*) Under the Bombay District Police Act, 1890—	
	Being drunk and incapable of taking care of himself in a street or public place or place of public resort ...	61(*l*)(*p*)
Bom. I of 1892.	(*e*) Under the Bombay District Vaccination Act, 1892—	
	Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area ...	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years ...	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. IV of 1923.	(*f*) Under the Bombay Primary Education Act, 1923—	
	Failure to cause child to attend school	21
	Employing child liable for compulsory education	22
Bom. V of 1925.	(*g*) Under the Bombay Prevention of Adulteration Act, 1925—	
	Sale or manufacture of food not of the proper nature, substance or quality...	4
	(*h*) Breaches of by-laws made punishable under this Act :"	

Amendment of section 42 of Bom. VI of 1933.

15. In clause (*b*) of section 42 of the said Act for the word "panchayat" the words "nyaya panchayat" shall be substituted.

Amendment of section 45 in Bom. VI of 1933.

16. In sub-section (*1*) of section 45 of the said Act—

(*i*) for the letters and figures "Rs. 10", "Rs. 20" and "Rs. 5", the letters and figures "Rs. 20", "Rs. 40" and "Rs. 10" shall, respectively, be substituted;

(*ii*) the word "and" at the end of clause (*b*) shall be deleted; and

(*iii*) after clause (*b*) the following new clauses shall be inserted, namely :—

Bom. IV of 1923.

"(*bb*) Under section 21 of the Bombay Primary Education Act, 1923—

Fine as provided in that section ;

Bom. IV of 1923.

(*bc*) Under section 22 of the Bombay Primary Education Act, 1923, or under the provisions of any other Act mentioned in section 41—

Fine not exceeding Rs. 20 ; and "

Amendment of section 46 of Bom. VI of 1933.

17. In section 46 of the said Act,—

(*i*) in clause (*a*) for the figures "20" the figures "40" shall be substituted;

(*ii*) in clause (*b*) for the figures "10" the figures "20" shall be substituted;

(*iii*) after clause (*b*) the following new clause shall be inserted, namely :—

"(*c*) Under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, 1923— Bom. IV of 1923.

Fine not exceeding Rs. 50."

Amendment of section 77 of Bom. VI of 1933.

18. In section 77 of the said Act,—

(*1*) in sub-sections (*1*) and (*2*) after the word "importance" the words "or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict" shall be inserted;

(*2*) in sub-section (*3*) after the word "importance" the words "or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict" shall be inserted.

Amendment of section 89 of Bom. VI of 1933.

19. In section 89 of the said Act,—

(i) at the beginning, the following shall be inserted, namely :—

"(*1*) Every panchayat shall levy a tax upon the owners or occupiers of houses including farm buildings whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemptions as may be prescribed.

(*1A*) Where an owner of a house or land has left the village or cannot otherwise be found, any person to whom such house or land has been transferred shall be liable for the tax leviable under sub-section (*1*) from such owner.

(*1B*) The rules made for the levy of the tax specified in sub-section (*1*) may provide that the payment of such tax may be made either in cash or by rendering of work and labour.";

(ii) in sub-section (*2*)

(*a*) in clause (iii) for the words "fairs and festivals" the words "fairs, festivals and entertainments" shall be substituted.

(*b*) after clause (vi) the following new clause shall be inserted, namely :—

"(*via*) a tax on shops and hotels;"

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(iii) after sub-section (2), the following shall be inserted namely :—

"(2A) Notwithstanding anything contained in sub-section (2), every panchayat shall levy any one of the taxes specified in sub-section (2) as may be prescribed." ; and

(iv) in sub-section (3) for the words "district local boards", at both the places where they occur, the word "standing committee of the district local board" shall be substituted.

Insertion of new section 92A in Bom. VI of 1933.

20. At the beginning of Chapter X the following new section shall be inserted, namely :—

Contribution by Provincial Government.

"92A. The Provincial Government shall assign to every panchayat levying the tax under sub-section (2A) of section 89 fifteen per cent. of the land revenue realised within the limits of the village."

Substitution of new section 93 for section 93 of Bom. VI of 1933.

21. For section 93 of the said Act, the following shall be substituted, namely :—

Loan by district local boards.

"93. Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act."

Bom. VI of 1923.

Amendment of section 102 of Bom. VI of 1933.

22. In sub-section (1) of section 102 of the said Act, after the word "force" the words, figures, letter and brackets "or fails to levy a tax under sub-section (1) or sub-section (2A) of section 89" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

23. In sub-section (1) of section 108 of the said Act—

(i) in clause (e1), after the words "prescribing the" the word "qualifications" and after the word "service" the words and brackets "(including disciplinary matters)" shall respectively, be inserted ;

(ii) after clause (m), the following new clause shall be inserted, namely :—

"(m1) under sub-section (2A) of section 89, prescribing any one of the taxes specified in sub-section (2) ;"

Substitution of nyaya panchayat for village bench or bench in Bom. VI of 1933.

24. In the said Act wherever the expression "village bench" or "bench" occurs the expression "*nyaya panchayat*" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The Bombay Village Panchayats Act, 1933, was amended by the Bombay Village Panchayats (Amendment) Act, 1940, and the Bombay Village Panchayats (Amendment) Act, 1945, and the Bombay Village Panchayats (Second Amendment) Act, 1945. All these three Acts were made by the Governor during the section 93 regime under sub-section (*4*) of section 93 of the Government of India Act, 1935. These Acts continue to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect unless sooner repealed or re-enacted by Act of the Provincial Legislature. It is considered desirable to continue in force section 3 of the Bombay Village Panchayats (Amendment) Act, 1940, and the provisions of the Bombay Village Panchayats (Amendment) Act, 1945, with certain modifications.

2. Opportunity has been taken to amend the principal Act in four main respects. Certain additional discretionary powers and duties have been conferred and imposed on the Panchayats on the lines of the Central Provinces and Berar Panchayats Act, 1946. Incidentally, the Provincial Government will vest in the Panchayats for these purposes open sites, waste, vacant or grazing lands.

3. The Secretary of the Panchayat will hereafter be appointed and be a servant of the Panchayat. Government will pay three-fourths of his salary. Jurisdiction under certain additional Acts has been conferred on the "*nyaya-panchayat*" which will be the new name of the village bench. Penalties which can be imposed by the *nyaya-panchayat* have been increased. Additional powers of taxation on entertainment and on shops and hotels have been conferred on the Panchayats. In order to enable Panchayats to discharge their responsibilities, provision has been made that Government shall assign to the Panchayats, which levy in addition to the house and land taxes under section 89 (*1*) any one of the optional taxes which will be specified in that behalf, 15 per cent. of the land revenue in the village.

4. The following notes on clauses explain the important changes made :—

Clause 4.—The maximum number of elected members of Panchayats is raised from 11 to 15. The powers of the district local board under the Act are specifically vested in the standing committee of the district local board.

Clause 6.—Disputes regarding the validity of the election of a sarpanch will be settled by the Collector whose decision shall be final.

Clause 7.—Provision in section 6 (*3*) is made applicable to bye-election under this section.

Clause 9.—This confers certain additional discretionary powers and imposes certain additional discretionary duties upon the Panchayats.

Clause 10.—The Provincial Government may vest in Panchayats open sites, waste, vacant or grazing land in the village for the purposes of carrying out its administrative powers and duties.

Clause 11.—A new proviso is substituted for the proviso to sub-section (*1*) of section 30 to the effect that no lease, sale or transfer of any immoveable property vested in the Panchayat by the district local board shall be made without the previous sanction of the Commissioner or of the Board.